REMARKS/ARGUMENTS

Claims 1-23 are pending in the application, with new claims 20-23 being added to round out the coverage of the invention. Reconsideration and a withdrawal of the rejection are hereby respectfully requested in view of the above amendments and the following remarks.

Applicant is pleased that the anticipation rejection of the claimed invention over the cited Maher, III et al. reference (U.S. Patent 6,381,242) is no longer being asserted, and appears to have been overcome by the Applicant's previous arguments.

Applicant submits that the present claims, as currently amended and presented, define patentable subject matter, which is neither anticipated, nor obvious, in view of the cited references.

Claim 18 stands rejected under 35 USC 101 because the Examiner asserts that the claimed computer signal bearing medium does not fall within a category of patentable subject matter. Applicant notes that claim 18 has been pending in the case, and was amended to recite that Applicant's claimed article is an article of manufacture comprising "computer-readable signal bearing medium". This amendment was made by Applicant in the Amendment dated February 28, 2005. Applicant submits that the claim, when considered in view of the specification and the level of skill in the art, defines appropriately patentable subject matter. Applicant refers to the specification, at par [0018], where Applicant recites that storage components may be located in memory, on

disk, on another system, etc. If Applicant has not understood the rejection, Applicant

respectfully requests an interview to resolve any terminology issues.

Claims 1, 5, 10, 14, 15 and 17-19 stand rejected under 35 U.S.C. § 102(e) as

being anticipated by Albrecht (U.S. Patent 7,020,895). This rejection is respectfully

traversed, and reconsideration of the rejection is respectfully requested.

The Examiner contends that Albrecht discloses the Applicant's invention. In

particular, the Examiner contends that Albrecht discloses a method for processing stored

and forwarded code (which the Examiner considers to be virus scanning in a system

where data to be scanned is transferring from an agent to a scanning engine located on a

central server (citing to col. 1, lines 5-11). The Examiner further contends that Albrecht

discloses transferring code from a storage component (citing to Fig. 3 and col. 5, lines 2-

11 of Albrecht, asserting that the agent intercepts data which is being transferred through

the system). The Examiner further contends that Albrecht discloses that intercepted

suspect data is then transferred by the agent to a central server comprising an anti-virus

application (citing to Figs. 2 and 3, and col. 1, lines 38-43 of Albrecht). The Examiner

further asserts that the Applicant's step of indicating via said proscribed code scanner to

said transfer component whether said code contains proscribed code; and without

transmitting said code to said transfer component is met by Fig. 2, the Abstract, col. 1,

lines 42-44 and col. 5, lines 65-67 (considering the result of the virus scan is returned

(sic) from the central server to the agent).

The Examiner also contends that Albrecht discloses Applicant's claimed step of

transferring said code to at least one secondary storage component based on said

indication, citing to Fig. 3, col. 5, line 67- col. 6 line 17, and relying on Albrecht for the position that in the event that no virus has been identified in the file, the agent allows the file to proceed.

Albrecht merely discloses that files which are not of a suspect type are "passed" by the agent, and are routed by the system to an appropriate destination. (See Albrecht detailed description, par. 6.) Albrecht does not state that the "agent" transfers the file to a "secondary storage component", as the Applicant's invention discloses and claims. Rather, in Albrecht, the agent "passes" the file (understood to mean that it "ok's it"), and it is the system which forwards the file on to an appropriate destination. According to the Applicant's invention, the transfer component, which is what the Examiner considers in Albrecht to be the "agent", is what transfers the file to the intended destination. In Applicant's invention, the method is recited in Applicant's claim to include the step of transferring said code to at least one secondary storage component based-on said indication. According to the Applicant's invention, the transfer component transfers to a secondary storage component file headers and file bodies which are determined to contain a virus, or determined not to contain a virus. Applicant's novel method is distinguishable over Albrecht, and is not taught, suggested or disclosed by Albrecht.

Applicant discloses and claims a novel method and apparatus for intercepting, examining and controlling code, data, files and their transfer. The Examiner contends that Albrecht discloses transfer to a secondary storage component by the <u>agent action</u> of permitting a file to proceed when <u>no virus has been identified</u>. Applicant disagrees that permitting the file to proceed is the same as transferring to a secondary storage

component, according to the Applicant's invention, as claimed and disclosed. Applicant's specification recites that the secondary storage, such as a secondary queue, may be used where proscribed code (such as a virus) is detected, or where a virus is not detected. This is different than what the Examiner asserts to be the Albrecht disclosure of an agent allowing a "file" to proceed, and something other than the agent, namely, the "system" which is the component on which the "agent" application is running. Therefore, it would appear that the "agent" does not, as Applicant's invention provides, transfer code (the code which is to be transmitted such as an email) to a secondary second storage component even where there is no need to quarantine the code or email.

Therefore Albrecht appears to be disclosing something else, and not disclosing or suggesting the presently claimed invention.

Claims 2, 3, 4, 6, 7, 8, 9, 11, 12, 13, and 16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Albrecht in view of Dickinson (US 6,609,196). This rejection is respectfully traversed, and reconsideration of the rejection is respectfully requested.

The Examiner admits that Albrecht fails to disclose the Applicant's invention, as recited in claims 2, 3, 4, 6, 7, 8, 9, 11, 12, 13, and 16.

The Applicant's invention set forth in claim 6 recites the feature of transferring said code from at least one *first secondary storage component* to at least one *secondary transfer component*; transferring said code, from said at least one first *secondary transfer component* to a proscribed code scanner; indicating, via said proscribed code scanner to said at least one *first transfer component*, whether said code contains proscribed code, without transmitting said code to said transfer component; and,

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transferring said code from at least one first *secondary transfer component* to at least one

second secondary storage component based on said indication.

According to the alleged disclosure of Albrecht in connection with the rejection of

claim 1, discussed above, the Examiner asserted that Albrecht discloses Applicant's

claimed step of transferring said code to at least *one secondary storage component* (i.e.,

the "first" secondary storage component) based on said indication, relying on Albrecht's

alleged disclosure that in the event that no virus has been identified in the file, the agent

allows the file to proceed. However, Applicant's invention is not obvious in view of the

combination of references of Albrecht and Dickinson.

One looking at Albrecht would not have been led to make the Examiner's

proposed combination. If Albrecht's alleged disclosure of at least one secondary storage

component (assuming as the Examiner considers it to be) relates to the agent allowing a

file to proceed, then one of ordinary skill in the art would not have been led to provide *a*

second secondary storage component, in particular, as claimed by Applicant's method,

since, according to the Examiner the one secondary storage component would be used

when the process is complete – that is the disclosure of Albrecht permitting the file to

pass from the agent. Therefore, one of ordinary skill in the art, considering Albrecht, and

even considering what the Examiner asserts Albrecht to disclose, would not be motivated

to combine the references (Albrecht and Dickinson). Accordingly, for these reasons, the

references would not teach one of ordinary skill in the art the Applicant's invention.

In addition, turning to Dickinson, that reference does not disclose the Applicant's

claimed invention, even if the combination were to be made (which Applicant submits

one of ordinary skill in the art would not do). The Examiner cites to passages of Dickinson which mention a "queue". However, upon a reading of Dickinson, neither passage of Dickinson (which refers to a queue) appears to disclose Applicant's claimed invention of creating a secondary queue which comprises a new queue prior to sendmail processing, and retrieving email code prior to further sendmail processing from the second queue and delivering prior to further sendmail processing said retrieved email code to a proscribed code scanner.

According to a further particularization of the embodiment of the invention, which is recited in new claim 22, where scanning of said email code delivered to said proscribed code scanner results in the identification of the presence of proscribed code, the message may remain in the secondary queue or be transferred to a second secondary queue. Alternatively, when scanning of said email code delivered to said proscribed code scanner does not result in the identification of the presence of proscribed code, the message may be moved to one or more other secondary queues. (See Applicant's Specification at [0034] and see [0013]). Claim 22 depends from claim 21, claim 9, and ultimately claim 6, and represents a further particularization of the invention.

Dickinson, even if combined with Albrecht, still fails to disclose the Applicant's claimed invention. First, Albrecht fails to disclose or suggest the utilization of generating a new queue, and even the use of queues, as disclosed and claimed by the Applicant. The Examiner acknowledges that Albrecht is at least deficient of a teaching of transferring said code from the at least one secondary storage component to a subsequent code transfer component. One would not look to combine the teaching of Dickinson with

Albrecht. The Examiner considers that since Albrecht fails to disclose transferring code from the secondary storage component to a subsequent code transfer component that it would have been obvious for one to look to Dickinson to fill Albrecht's deficiency. However, there is no reason why one would apply this teaching, since Albrecht, at least according to what it has been cited for, allegedly already is considered by the Examiner to disclose a transfer component which is the Albrecht central server. The central server of Albrecht (i.e., the alleged transfer component) does not transfer from a secondary storage component to a subsequent central server (a subsequent code transfer component). The Albrecht secondary storage component (as it is considered to be by the Examiner) does not disclose that it would receive code where a virus (proscribed code) is found. According to what Albrecht would appear to disclose, one would not have considered that the subsequent code storage component would be the Dickinson quarantined queue stored message for subsequent retrieval. Rather, Albrecht, if it can be said to disclose transfer to a secondary storage means at all, would be the step of permitting a cleared (or, in other words, a file not containing proscribed code) to pass. Therefore, based on and according to what the Examiner considers Albrecht to admittedly disclose, following this same attribution, the transfer to a secondary storage component of Dickinson would therefore be the transmission of the "file" or code. To the extent that Dickinson is relied on to fill admitted deficiencies of Albrecht, the Dickinson disclosure would appear to lack correspondence with what Albrecht is allegedly credited with disclosing.

Even the passages of Dickinson cited in support of the rejection of the Applicant's claimed invention do not teach or disclose what is claimed. Dickinson mentions that low priority messages are stored in a queue (col. 5, lines 32-48), and further that a disposition step (620) stores messages in queues depending on the disposition of the message (col. 9, line 65- col. 10, line 2). Albrecht is inconsistent, since the alleged transfer of said code, which according to Applicant is stored and forwarded code-- defined by Applicant as discrete units of code stored and forwarded as those discrete units (spec [0019]) to at least one secondary storage component -- is when no virus is detected and the Albrecht agent allows the file to proceed.

Dickinson's access manager (218), described in a paragraph cited and relied on by the Examiner, relates to controlling the destination to which the email is sent or received. In fact, the access manager acts only on message header information. (See col. 7, lines 28-29.) Dickinson relates to prohibitions on receiving mail from certain senders, or sending to particular recipients. This disclosure of Dickinson's access manager does not teach proscribed code handling. To the contrary, it only discloses using message header information where the sending or receiving information would be. Next, even the Dickinson content manager (220) still fails to disclose the Applicant's invention. According to Dickinson, a virus manager (224) is what Dickinson discloses for detecting viruses in compressed file formats. (Col. 5, lines 49- 61).

Though Dickinson refers to a virus manager (224), when Dickinson is considered further, it is apparent that the Applicant's claimed method is not taught, suggested or disclosed.

More particularly, a reading of what Dickinson discloses would actually suggest that even if combined as proposed with Albrecht, the Applicant's invention would not be arrived at.

Dickinson discloses that the disposition action (620) determines whether the message should (1) continue to the destinations (specified by field 206) or (2) whether one of a plurality of alternative actions (622) are required, the alternative actions disclosed being deferral, quarantine, return to sender, and dropping of the message (col. 9, line 64-col. 10, line 2). The "alternative actions 622" are described to be stored in one of four queues. However, Dickinson fails to disclose or suggest the Applicant's method wherein a second secondary storage component is employed, where the email code or message is passed (or "ok'd") for distribution. Applicant's invention performs this task based on what is required of a file by the proscribed code scanner in communication with the first transfer component. Therefore, the Applicant's method is distinguishable over what Dickinson is doing, because according to the Applicant's method, in order to permit passage of the "passed" file, the proscribed code scanner tells the transfer component by returning an indicator to the transfer component, which in turn facilitates transfer of the header and body components to appropriate queues based on the indication from the proscribed code scanner. (See Applicant's published specification at [0034].) Neither Dickinson nor Albrecht appears to disclose the Applicant's claimed method.

New claims 20, 21, 22 and 23 have been added to more particularly articulate features of the Applicant's present invention. Claim 20 recites a method for processing stored and forwarded code wherein a plurality of secondary storage components are

provided with at least one queue for outgoing messages and at least one other of said queue comprising a queue from which messages are copied by a said transfer component and said copies are transferred to said proscribed code scanner. Also, in accordance with claim 20, the code comprises e-mail and the method includes the step of creating a secondary queue. New claim 20 is believed to be Patentable over the cited references.

New claim 21 depends on claim 9, and recites a method for sending mail, and includes the step of creating a secondary queue which comprises a new queue prior to send mail processing, and retrieving email code prior to further send mail processing from the second queue, and delivering prior to further send mail processing the retrieve email code to a proscribed code scanner. New claim 21 is believed to be patentable over the cited references.

New claim 22 depends from new claim 21 and further particularizes the scanning of email code by indicating that where scanning of email code delivered to the proscribed code scanners results in proscribed code identification, the email code may remain in the secondary queue or be transferred to a secondary queue. When scanning an email code delivered to the proscribed code scanner does not result in the identification of the presence of the proscribed code the email code may be moved to one or more third secondary queues. Claim 22 is believed to be distinguishable over the cited references and should be patentable.

New claim 23 depends from claim 1 and recites the feature of providing a plurality of secondary storage components including at least one secondary storage component comprising a queue for outgoing messages, and wherein at least one other of

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said queue comprises a queue from which messages are copied by a said transfer component and the copies are transferred to the proscribed code scanner. New claim 23 is believed to be patentable over the cited references.

Applicant's claimed invention is not taught, suggested or disclosed by combining the cited references and should be patentable.
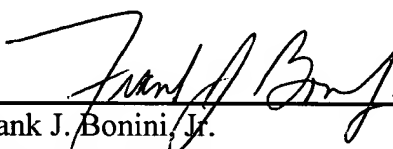
New claims 20, 21, 22 and 23 have been added to more particularly articulate features of the Applicant's present invention.

Reconsideration and a withdrawal of the rejection are respectfully requested.

If necessary, an appropriate extension of time to respond is respectfully requested.

The Commissioner is authorized to charge any additional fees which may be required to Patent Office Deposit Account No. 05-0208.

Respectfully submitted,
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